

Indiana Professional Licensing Agency

Indiana Respiratory Care Committee

2005 Edition

Respiratory Care Statute (IC 25-5)

Respiratory Care Rules (Title 888)

Health Professions Standards of Practice (IC 25-1-9)

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ARTICLE 34.5. RESPIRATORY CARE PRACTITIONERS

This is an UNOFFICIAL version of the Indiana Respiratory Care Committee statute prepared by the Indiana Professional Licensing Agency. An official version of the code should be available through your public library and can be accessed on the Internet at <http://www.in.gov/legislative/ic/code/title25/ar34.5/>.

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IC 25-34.5-1-1 Applicability of definitions

Sec. 1. The definitions in this chapter apply throughout this article.
As added by P.L.242-1989, SEC.1.

IC 25-34.5-1-2 "Applicant" defined

Sec. 2. "Applicant" means a person who applies for licensure as a respiratory care practitioner under this article. The term does not include a practitioner who applies for renewal of the practitioner's license.

As added by P.L.242-1989, SEC.1. Amended by P.L.60-2000, SEC.1.

IC 25-34.5-1-2.5 "Assessment" defined

Sec. 2.5. (a) "Assessment" means the evaluation and interpretation of patient data that is the basis for and a prerequisite for making a decision concerning patient care.

(b) The term does not include making a medical diagnosis.

As added by P.L.60-2000, SEC.2.

IC 25-34.5-1-3 "Board" defined

Sec. 3. "Board" refers to the medical licensing board of Indiana.
As added by P.L.242-1989, SEC.1.

IC 25-34.5-1-4 "Committee" defined

Sec. 4. "Committee" refers to the respiratory care committee established under IC 25-34.5-2-1.
As added by P.L.242-1989, SEC.1.

IC 25-34.5-1-4.7 "Other authorized health care professional" defined

Sec. 4.7. "Other authorized health care professional" means a licensed health care professional whose scope of practice:

- (1) includes the task being supervised; and
- (2) authorizes the professional to supervise an individual who is not licensed, certified, or registered as a health care professional.

As added by P.L.60-2000, SEC.3. Amended by P.L.288-2001, SEC.12.

IC 25-34.5-1-5 "Person" defined

Sec. 5. "Person" means an individual.

As added by P.L.242-1989, SEC.1.

IC 25-34.5-1-6 "Practice of respiratory care" defined

Sec. 6. "Practice of respiratory care" means the allied health specialty designed to aid the supervising physician or osteopath in the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system. The term includes the following:

- (1) Administration of pharmacological, diagnostic, and therapeutic aids related to the implementation of a treatment, disease prevention, pulmonary rehabilitation, or diagnostic regimen prescribed by and under the direct supervision of a physician licensed under IC 25-22.5 as follows:
 - (A) Administration of medical gases (except for the purpose of anesthesia), aerosols, and humidification.
 - (B) Environmental control mechanisms and hyperbaric therapy.
 - (C) Mechanical or physiological ventilatory support.
 - (D) Bronchopulmonary hygiene.
 - (E) Cardiopulmonary resuscitation.
 - (F) Maintenance of the natural airway.
 - (G) Insertion and maintenance of artificial airways.
 - (H) Specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment, and research of pulmonary abnormalities, including measurements of ventilatory volumes, pressures, and flows, collection of specimens of blood and blood gases, expired and inspired gas samples, respiratory secretions, and pulmonary function testing.
 - (I) Utilization of hemodynamic and other related physiologic measurements to assess the status of the cardiopulmonary system.
- (2) Transcription and implementation of the written or verbal orders of a physician.
- (3) Observing and monitoring signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether the signs, symptoms, reactions, behavior, or general response exhibit abnormal characteristics.
- (4) Observing and referring based on abnormalities, protocols, or changes in treatment.
- (5) Repairing equipment used in the practice of respiratory care.

As added by P.L.242-1989, SEC.1. Amended by P.L.60-2000, SEC.4.

IC 25-34.5-1-7 "Practitioner" defined

Sec. 7. "Practitioner" means a person licensed under this article to engage in the practice of respiratory care.

As added by P.L.242-1989, SEC.1. Amended by P.L.60-2000, SEC.5.

IC 25-34.5-1-8 "Proximate supervision" defined

Sec. 8. "Proximate supervision" means a situation in which an individual is:

- (1) responsible for directing the actions of another individual; and
- (2) in the facility and is physically close enough to be readily available if needed by the supervised individual.

As added by P.L.60-2000, SEC.6.

IC 25-34.5-1-9 "Task" defined

Sec. 9. "Task" means a respiratory care practice that does not:

- (1) require specialized knowledge that results from a course of education or training in respiratory care;
- (2) pose an unreasonable risk of a negative outcome for the patient; and
- (3) involve assessment or making a decision concerning patient care.

As added by P.L.60-2000, SEC.7.

Chapter 2. Respiratory Care Committee; Licensure

25-34.5-2-1	Purpose
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25-34.5-2-3	Terms

25-34.5-2-4	Removal of members
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25-34.5-2-12	Examinations; contents; reexamination
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IC 25-34.5-2-1 Purpose

Sec. 1. The respiratory care committee is established to assist the board in carrying out this article with regard to the qualifications and examination of respiratory care practitioners.

As added by P.L.242-1989, SEC.1.

IC 25-34.5-2-2 Membership

Sec. 2. (a) The committee consists of five (5) members to be appointed by the governor as follows:

- (1) At least two (2) practitioners.
- (2) At least one (1) physician licensed under IC 25-22.5 who is familiar with the practice of respiratory care.
- (3) At least one (1) member who:
 - (A) is a resident of Indiana; and
 - (B) is not associated with the practice of respiratory care in any way, other than as a consumer.
- (b) Each practitioner appointed to the committee must:
 - (1) be a practitioner meeting the requirements of this article;
 - (2) have had not less than three (3) years experience in the actual practice of respiratory care immediately preceding appointment; and
 - (3) be a resident of Indiana and actively engaged in Indiana in the practice of respiratory care while serving as a member of the committee.

As added by P.L.242-1989, SEC.1. Amended by P.L.48-1991, SEC.63.

IC 25-34.5-2-3 Terms

Sec. 3. The governor shall make each appointment to the committee for a term of three (3) years.

As added by P.L.242-1989, SEC.1. Amended by P.L.1-1990, SEC.255; P.L.48-1991, SEC.64.

IC 25-34.5-2-4 Removal of members

Sec. 4. A member of the committee may be removed by the governor without cause.

As added by P.L.242-1989, SEC.1. Amended by P.L.1-1990, SEC.256; P.L.48-1991, SEC.65.

IC 25-34.5-2-5 Salaries; expenses

Sec. 5. Each member of the committee who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Each member of the committee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

As added by P.L.242-1989, SEC.1.

IC 25-34.5-2-6 Duties

Sec. 6. The committee shall:

- (1) pass upon the qualifications of persons who apply for licensure as respiratory care practitioners;
- (2) provide all examinations;
- (3) license qualified applicants; and

(4) propose rules concerning the competent practice of respiratory care to the board.
As added by P.L.242-1989, SEC.1. Amended by P.L.60-2000, SEC.8.

IC 25-34.5-2-6.1 Rules regarding designation of tasks

Sec. 6.1. The rules proposed under section 6(4) of this chapter and adopted under section 7(l) of this chapter must include, to the extent reasonably ascertainable, a designation of all tasks. The designation of tasks must:

- (1) exclude the practices described in section 6.2 of this chapter; and
- (2) include the tasks described in section 6.3 of this chapter.

As added by P.L.60-2000, SEC.9.

IC 25-34.5-2-6.2 Practices not considered tasks

Sec. 6.2. The following respiratory care practices are not tasks:

- (1) Administration of aerosol medication.
- (2) Insertion and maintenance of an artificial airway.
- (3) Mechanical ventilatory support.
- (4) Patient assessment.
- (5) Patient education.

As added by P.L.60-2000, SEC.10.

IC 25-34.5-2-6.3 Practices considered tasks

Sec. 6.3. The following respiratory care practices are tasks:

- (1) Cleaning, disinfecting, sterilizing, and assembling equipment used in the practice of respiratory care as delegated by a practitioner or other authorized health care professional.
- (2) Collecting and reviewing patient data through noninvasive means if the collection and review does not include the individual's interpretation of the clinical significance of the data. Collecting and reviewing patient data includes the following:
 - (A) Setting up and obtaining an electrocardiogram.
 - (B) Performing pulse oximetry and reporting to a practitioner or other authorized health care professional in a timely manner.
- (3) Setting up a nasal cannula for oxygen therapy and reporting to a practitioner or other authorized health care professional in a timely manner.
- (4) Performing incentive spirometry, excluding a patient's initial treatment and education.
- (5) Performing cough and deep breath maneuvers.
- (6) Maintaining a patient's natural airway by physically manipulating the jaw and neck.

As added by P.L.60-2000, SEC.11.

IC 25-34.5-2-6.4 Performance of tasks by unlicensed person; oversight by practitioner

Sec. 6.4. (a) Notwithstanding any other law and except as otherwise provided in this article, to perform the practice of respiratory care other than a task, an individual must be:

- (1) a practitioner; or
- (2) a licensed, registered, or certified health care professional whose scope of practice includes the respiratory care practice.

(b) An individual who is not a licensed, registered, or certified health care professional may perform a task only:

- (1) under the proximate supervision of a practitioner or other authorized health care professional; and
- (2) if the individual has demonstrated to the facility that employs or contracts with the individual competency to perform the task.

The facility shall document competency in accordance with licensure, certification, and accreditation standards applicable to the facility.

(c) A practitioner may do the following:

- (1) Delegate tasks.
- (2) Supervise the performance of tasks.

As added by P.L.60-2000, SEC.12. Amended by P.L.288-2001, SEC.13.

IC 25-34.5-2-7 Rules

Sec. 7. The board shall adopt rules under IC 4-22-2 establishing:

- (1) standards for the competent practice of respiratory care under the direct supervision of a physician licensed under IC 25-22.5, including a designation of tasks;
- (2) fees for the administration of this article; and
- (3) standards for the administration of this article;

after considering rules proposed by the committee.

As added by P.L.242-1989, SEC.1. Amended by P.L.48-1991, SEC.66; P.L.60-2000, SEC.13.

IC 25-34.5-2-8 Evidence required from applicants; criminal convictions; disciplinary actions; education requirements

Sec. 8. (a) Each applicant for licensure as a respiratory care practitioner must present satisfactory evidence that the applicant:

- (1) does not have a conviction for:
 - (A) an act that would constitute a ground for disciplinary sanction under IC 25-1-9; or
 - (B) a crime that has a direct bearing on the practitioner's ability to practice competently;
- (2) has not been the subject of a disciplinary action initiated by the licensing or certification agency of another state or jurisdiction on the grounds that the applicant was unable to practice as a respiratory care practitioner without endangering the public; and
- (3) has passed a respiratory care practitioner licensing or certification examination approved by the board.

(b) Each applicant for licensure as a respiratory care practitioner must submit proof to the committee of the applicant's:

- (1) graduation from a school or program of respiratory care that meets standards set by the board;
- (2) completion of a United States military training program in respiratory care; or
- (3) completion of sufficient postsecondary education to be credentialed by a national respiratory care practitioner organization approved by the committee.

(c) At the time of making application, each applicant must pay a fee determined by the board after consideration of a recommendation of the committee.

As added by P.L.242-1989, SEC.1. Amended by P.L.33-1993, SEC.70; P.L.177-1997, SEC.6; P.L.60-2000, SEC.14.

IC 25-34.5-2-9 Licensure; expiration

Sec. 9. (a) Except as provided in section 11 of this chapter, the committee shall issue a license to each applicant who:

- (1) successfully passes the examination provided in section 12 of this chapter; and
- (2) meets the requirements of section 8 of this chapter.

(b) A license issued under this section expires on the last day of the regular renewal cycle established under IC 25-1-5-4.

As added by P.L.242-1989, SEC.1. Amended by P.L.48-1991, SEC.67; P.L.60-2000, SEC.15.

IC 25-34.5-2-10 Renewal of license; reinstatement of invalid licenses

Sec. 10. (a) The committee shall, under IC 25-1-2, renew every two (2) years the license of a practitioner who:

- (1) meets the continuing education requirements established by rule by the board; and
- (2) pays the fee set by the board.

(b) If a practitioner does not renew the practitioner's license before its expiration, the practitioner's license becomes invalid without action taken by the committee. A license that becomes invalid under this subsection may be reinstated by the committee up to three (3) years after its invalidation if the practitioner who holds an invalid license meets the requirements under IC 25-1-8-6.

(c) If a license that becomes invalid under subsection (b) is not reinstated by the committee within three (3) years of its invalidation, the holder of the invalid license may be required by the committee to take an examination for competence before the committee will reinstate the license.

(d) The board may adopt rules under IC 4-22-2 establishing requirements for reinstatement of an invalid license after consideration of a recommendation of the committee.

(e) The board shall accept continuing education courses in the following areas toward fulfillment of the requirements of subsection (a):

- (1) Management of the practice of respiratory care.
- (2) Courses concerning the practice of respiratory care that enable individuals to teach continuing education courses for respiratory care practitioners.
- (3) The practice of respiratory care.

As added by P.L.242-1989, SEC.1. Amended by P.L.60-2000, SEC.16; P.L.269-2001, SEC.30.

IC 25-34.5-2-10.1 Temporary permits

Sec. 10.1. (a) The committee may issue a temporary permit to a person to practice respiratory care or to profess to be a respiratory care practitioner if the person pays a fee and:

- (1) has:
 - (A) a valid license or certificate to practice from another state; and

(B) applied for a license from the committee;

(2) is practicing in a state that does not license or certify respiratory care practitioners but is credentialed by a national respiratory care practitioner association approved by the committee, and the person has applied for a license from the committee; or

(3) has:

(A) been approved by the committee to take the next examination; and

(B) graduated from a school or program approved by the committee.

(b) A temporary permit expires the earlier of:

(1) the date the person holding the permit is issued a license under this article; or

(2) the date the committee disapproves the person's license application.

(c) The committee may renew a temporary permit if the person holding the permit was scheduled to take the next examination and:

(1) did not take the examination; and

(2) shows good cause for not taking the examination.

(d) A permit renewed under subsection (c) expires on the date the person holding the permit receives the results from the next examination given after the permit was issued.

As added by P.L.48-1991, SEC.68. Amended by P.L.60-2000, SEC.17.

IC 25-34.5-2-11 Issuance of license by endorsement; waiver of education requirements

Sec. 11. (a) The committee may issue a license by endorsement to a person who:

(1) presents satisfactory evidence to the committee that the person holds:

(A) a license or certification to practice respiratory care in:

(i) another state; or

(ii) a jurisdiction of Canada; or

(B) credentials issued by a national respiratory care practitioner organization approved by the committee;

(2) meets the requirements of section 8 of this chapter; and

(3) pays a fee determined by the board after consideration of a recommendation of the committee.

(b) If the applicant presents satisfactory evidence that the applicant has actively engaged in the practice of respiratory care that included actual patient care:

(1) in another jurisdiction;

(2) under the supervision of a physician licensed in that jurisdiction; and

(3) for at least ten (10) of the previous fifteen (15) years preceding the date of application;

the committee may waive the education requirements under subsection (a)(2) and section 8(b) of this chapter if the committee determines that the applicant has sufficient knowledge and experience.

As added by P.L.242-1989, SEC.1. Amended by P.L.177-1997, SEC.7; P.L.60-2000, SEC.18.

IC 25-34.5-2-12 Examinations; contents; reexamination

Sec. 12. (a) Examinations of applicants for licensure under this article shall be held at least semiannually on dates set by the board.

(b) An examination under this section must include a written examination that tests the following:

(1) The applicant's knowledge of the basic and clinical sciences as they relate to the practice of respiratory care.

(2) Other subjects that the committee considers useful to test an applicant's fitness to practice respiratory care.

(c) An otherwise qualified applicant who fails an examination and is refused licensure may take another scheduled examination upon payment of an additional fee set by the board under rules adopted under section 7 of this chapter.

As added by P.L.242-1989, SEC.1. Amended by P.L.60-2000, SEC.19.

IC 25-34.5-2-13 Utilization of testing services

Sec. 13. The committee may utilize the services of a testing company to prepare, conduct, and score examinations.

As added by P.L.242-1989, SEC.1.

IC 25-34.5-2-14 Student permits

Sec. 14. (a) The committee shall issue a student permit to an individual if the individual does the following:

(1) Submits the appropriate application to the committee.

(2) Pays the fee established by the board.

(3) Submits written proof to the committee that the individual is a student in good standing in a respiratory care school or program that has been:

- (A) approved by the committee for purposes of section 8(b)(1) of this chapter;
 - (B) approved by the committee for purposes of section 10.1(a)(3)(B) of this chapter; or
 - (C) otherwise approved by the committee.
 - (4) Submits satisfactory evidence that the individual:
 - (A) does not have a conviction described in section 8(a)(1) of this chapter; and
 - (B) has not been the subject of a disciplinary action described in section 8(a)(2) of this chapter.
 - (b) The committee shall issue a student permit as soon as it is reasonably practicable after an individual fulfills the requirements of subsection (a).
 - (c) An individual who holds a student permit may only perform respiratory care procedures that have been part of a course:
 - (1) the individual has successfully completed in the respiratory care program designated under subsection (a)(3); and
 - (2) for which the successful completion has been documented and that is available upon request to the committee.
 - (d) The committee may expand the list of respiratory care procedures that an individual may perform under the individual's student permit to include additional respiratory care procedures that have been part of a course:
 - (1) that the individual has successfully completed in the respiratory care program designated under subsection (a)(3); and
 - (2) for which the individual's successful completion has been documented.
- Upon request by the committee, the individual shall provide documentation of the successful completion of a course described in this subsection.
- (e) The procedures permitted under subsections (c) and (d) may be performed only:
 - (1) on adult patients who are not critical care patients; and
 - (2) under the proximate supervision of a practitioner.
 - (f) A holder of a student permit shall meet in person at least one (1) time each working day with the permit holder's supervising practitioner or a designated respiratory care practitioner to review the permit holder's clinical activities. The supervising practitioner or a designated respiratory care practitioner shall review and countersign the entries that the permit holder makes in a patient's medical record not more than seven (7) calendar days after the permit holder makes the entries.
 - (g) A supervising practitioner may not supervise at one (1) time more than three (3) holders of student permits issued under this section.
 - (h) A student permit expires on the earliest of the following:
 - (1) The date the permit holder is issued a license under this article.
 - (2) The date the committee disapproves the permit holder's application for a license under this article.
 - (3) The date the permit holder ceases to be a student in good standing in a respiratory care program approved by the committee. The graduation of a student permit holder from a respiratory care program approved by the committee does not cause the student permit to expire under this subdivision.
 - (4) Sixty (60) days after the date that the permit holder graduates from a respiratory care program approved by the committee.
 - (5) The date that the permit holder is notified that the permit holder has failed the licensure examination.
 - (6) Two (2) years after the date of issuance.

As added by P.L.60-2000, SEC.20. Amended by P.L.288-2001, SEC.14.

Chapter 3. Violations and Sanctions

- 25-34.5-3-1 Representations by unlicensed persons
- 25-34.5-3-2 Criminal charges
- 25-34.5-3-3 Practice of health care professionals not affected
- 25-34.5-3-4 Examination requirement for practice by health care nonprofessional
- 25-34.5-3-5 Conditions for operation of equipment by health care nonprofessional
- 25-34.5-3-6 Performing CPR; repairing equipment
- 25-34.5-3-7 Employee acting under supervision of physician not affected
- 25-34.5-3-8 Laboratory tests by nonpractitioner

IC 25-34.5-3-1 Representations by unlicensed persons

Sec. 1. A person may not:

- (1) practice respiratory care;
- (2) profess to be a respiratory care practitioner;
- (3) use the title "respiratory care practitioner"; or
- (4) use any initials, words, letters, abbreviations, or insignia indicating or implying that the person is a respiratory care practitioner licensed under this article;

unless the person is licensed under this article.

As added by P.L.242-1989, SEC.1. Amended by P.L.48-1991, SEC.69; P.L.60-2000, SEC.21.

IC 25-34.5-3-2 Criminal charges

Sec. 2. A person who violates this chapter commits a Class B misdemeanor. In addition to any other penalty imposed for a violation of this chapter, the board may, in the name of the state of Indiana through the attorney general, petition a circuit or superior court to enjoin the person who is violating this chapter from practicing respiratory care in violation of this chapter.

As added by P.L.242-1989, SEC.1. Amended by P.L.60-2000, SEC.22.

IC 25-34.5-3-3 Practice of health care professionals not affected

Sec. 3. This article does not prohibit a licensed, registered, or certified health care professional from practicing within the scope of the health care professional's license, registration, or certification.

As added by P.L.60-2000, SEC.23.

IC 25-34.5-3-4 Examination requirement for practice by health care nonprofessional

Sec. 4. Except as provided in IC 25-34.5-2-6.4(a), an individual who is not licensed, registered, or certified as a health care professional may perform a respiratory care practice only when the individual passes an examination covering the practice that is offered by a testing body approved by the committee.

As added by P.L.60-2000, SEC.24.

IC 25-34.5-3-5 Conditions for operation of equipment b health care nonprofessional

Sec. 5. An individual who is not licensed, registered, or certified as a health care professional may deliver, set up, calibrate, and demonstrate the mechanical operation of respiratory care equipment in a residential setting only when the following conditions are met:

- (1) The individual's employer documents that the individual has obtained adequate training and demonstrated competence under the supervision of a practitioner or other licensed, registered, or certified health care professional.
- (2) The individual does not teach, administer, or practice respiratory care.
- (3) The individual does not attach the respiratory care equipment to the patient or instruct the patient, the patient's family, or the patient's caregiver on the equipment's clinical use as a treatment device.
- (4) All instructions to the patient, family, or caregiver regarding the clinical use of the equipment, patient monitoring, patient assessment, or other procedures designed to evaluate the effectiveness of the treatment are performed by a practitioner or other licensed, registered, or certified health care professional.

As added by P.L.60-2000, SEC.25.

IC 25-34.5-3-6 Performing CPR; repairing equipment

Sec. 6. This article does not prohibit an individual who is not licensed as a respiratory care practitioner from doing any of the following:

- (1) Performing cardiopulmonary resuscitation.
- (2) Repairing equipment used in the practice of respiratory care.

As added by P.L.60-2000, SEC.26.

IC 25-34.5-3-7 Employee acting under supervision of physician not affected

Sec. 7. This article does not affect the applicability of IC 25-22.5-1-2(a)(19).

As added by P.L.60-2000, SEC.27.

IC 25-34.5-3-8 Laboratory tests by nonpractitioner

Sec. 8. This article does not prohibit an individual who is not a practitioner from performing laboratory tests in a clinical laboratory holding a federal Clinical Laboratory Improvement Act (CLIA) certificate or a CLIA certificate of accreditation if the individual satisfies the specified federal qualification standards.

As added by P.L.60-2000, SEC.28.

<p style="text-align: center;">TITLE 844. RESPIRATORY CARE PRACTITIONERS</p>
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- Rule 1. Definitions
- Rule 2. Fees
- Rule 3. Admission to Practice
- Rule 4. Standards of Competent Practice Under the Direct Supervision of a Physician
- Rule 5. Certification Renewal

Rule 1. Definitions

844 IAC 11-1-1 Applicability

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5

Sec. 1. The definitions in this rule apply throughout this article. (*Medical Licensing Board of Indiana; 844 IAC 11-1-1; filed Oct 26, 1990, 3:05 p.m.: 14 IR 448; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532*)

844 IAC 11-1-2 "School or program" defined

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2-8

Sec. 2. "School or program", as mentioned in IC 25-34.5-2-8(b), means a program for the education of respiratory care practitioners. The board hereby adopts the standards and guidelines of the Commission on Accreditation of Allied Health Education Programs for the Profession of Respiratory Care adopted in 1962 and revised in 1972, 1977, 1986, and 2000. The standards and guidelines are hereby incorporated by reference and made applicable to this title and specifically to this section. A current copy of the document may be purchased by contacting the Committee on Accreditation for Respiratory Care, 1248 Harwood Road, Bedford, Texas 76021-4244 or the Health Professions Bureau, Indiana Government Center-South, 402 West Washington Street, Room W041, Indianapolis, Indiana 46204. (*Medical Licensing Board of Indiana; 844 IAC 11-1-2; filed Oct 26, 1990, 3:05 p.m.: 14 IR 448; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1320*)

844 IAC 11-1-3 "Bureau" defined

Authority: IC 25-34.5-2-7

Affected: IC 25-1-5-3; IC 25-34.5

Sec. 3. "Bureau" refers to the health professions bureau established under IC 25-1-5-3. (*Medical Licensing Board of Indiana; 844 IAC 11-1-3; filed Oct 26, 1990, 3:05 p.m.: 14 IR 448; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532*)

844 IAC 11-1-4 "Direct supervision" defined

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-1-6

Sec. 4. "Direct supervision" means that the supervising physician shall be reasonably available and responsible at all times for the direction and the actions of the practitioner being supervised when services are being performed by the practitioner. The patient's care shall always be the responsibility of the supervising physician. (*Medical Licensing Board of Indiana; 844 IAC 11-1-4; filed Oct 26, 1990, 3:05 p.m.: 14 IR 448; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532*)

844 IAC 11-1-5 "Physician" defined

Authority: IC 25-34.5-2-7

Affected: IC 25-22.5-1-1.1

Sec. 5. "Physician" refers to a medical doctor or an osteopathic doctor as defined in IC 25-22.5-1-1.1. *(Medical Licensing Board of Indiana; 844 IAC 11-1-5; filed Oct 26, 1990, 3:05 p.m.: 14 IR 448; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532)*

844 IAC 11-1-6 "Professional incompetence" defined

Authority: IC 25-34.5-2-7

Affected: IC 25-22.5-1-1

Sec. 6. "Professional incompetence" means, but is not limited to, a pattern or course of repeated conduct by a practitioner demonstrating a failure to exercise such reasonable care and diligence as is ordinarily exercised by practitioners in the same or similar circumstances in the same or similar locality. *(Medical Licensing Board of Indiana; 844 IAC 11-1-6; filed Nov 14, 1991, 3:30 p.m.: 15 IR 583; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532)*

Rule 2. Fees

844 IAC 11-2-1 *(Repealed)*

844 IAC 11-2-1.1

844 IAC 11-2-1 Fees

Sec. 1. *(Repealed by Medical Licensing Board of Indiana; filed Jan 7, 2002, 10:08 a.m.: 25 IR 1636)*

844 IAC 11-2-1.1 Fees

Authority: IC 25-1-8-2; IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 1. The board shall charge and collect the following fees:

Application for licensure	\$50
Biennial renewal of licensure	\$50
Verification of licensure	\$10
Duplicate wall license	\$10
Temporary permit	\$25
Renewal of a temporary permit	\$10
Student permit	\$25

(Medical Licensing Board of Indiana; 844 IAC 11-2-1.1; filed Jan 7, 2002, 10:08 a.m.: 25 IR 1635)

Rule 3. Admission to Practice

844 IAC 11-3-1 Application for certification; deadlines *(Expired)*

844 IAC 11-3-2 Licensure by examination

844 IAC 11-3-3 Licensure by endorsement

844 IAC 11-3-3.1 Licensure by credentials

844 IAC 11-3-4 Temporary permits

844 IAC 11-3-4.1 Temporary permits by examination

844 IAC 11-3-1 Application for certification; deadlines (Expired)

Sec. 1. *(Expired under IC 4-22-2.5, effective January 1, 2002.)*

844 IAC 11-3-2 Licensure by examination

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2-8; IC 25-34.5-2-9

Sec. 2. The committee shall issue a license by examination to an applicant who completes the following:

- (1) Applies to the committee in the form and manner prescribed by the board.
- (2) Submits the fees specified in 844 IAC 11-2-1.
- (3) Successfully completes and submits an official credential report that verifies passing a respiratory care practitioner examination required by the committee.
- (4) Submits two (2) recent passport-quality photographs of the applicant, approximately two (2) inches by two (2) inches in size, signed in black ink along the bottom.
- (5) Submits an official transcript of grades from the school or program from which the applicant obtained the applicant's degree which shows that all requirements for graduation have been met by the applicant that meets the standards set by the board under 844 IAC 11-1-2.
- (6) Otherwise meets the requirements of IC 25-34.5-2-8.

(Medical Licensing Board of Indiana; 844 IAC 11-3-2; filed Oct 26, 1990, 3:05 p.m.: 14 IR 449; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1321)

844 IAC 11-3-3 Licensure by endorsement

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2-8; IC 25-34.5-2-11

Sec. 3. The committee may issue a license by endorsement to an applicant who completes the following:

- (1) Applies to the committee in the form and manner required by the board.
- (2) Submits the fees required under 844 IAC 11-2-1.
- (3) Submits two (2) recent passport-quality photographs of the applicant, no smaller than two (2) inches by two (2) inches, each signed by the applicant at the bottom in black ink.
- (4) Submits an official transcript of grades from the school or program from which the applicant obtained the applicant's degree which shows that all requirements for graduation have been met by the applicant that meets the standards set by the board under 844 IAC 11-1-2.
- (5) Submits verification from all states in which the applicant has been or is currently licensed/certified which statement shall include whether the applicant has ever been disciplined in any manner.
- (6) Submits an official credentials report that verifies passing a respiratory care practitioner examination approved by the board.
- (7) Otherwise meets the requirements of IC 25-34.5-2-8.

(Medical Licensing Board of Indiana; 844 IAC 11-3-3; filed Oct 26, 1990, 3:05 p.m.: 14 IR 449; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1321)

844 IAC 11-3-3.1 Licensure by credentials

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2-6

Sec. 3.1. The committee may issue a license by credentials to an applicant who completes the following:

- (1) Applies to the committee in the form and manner required by the board.
- (2) Submits the fee required under 844 IAC 11-2-1.
- (3) Submits two (2) recent passport-quality photographs of the applicant, no smaller than two (2) inches by two (2) inches, each signed by the applicant at the bottom in black ink.
- (4) Submits an official transcript of grades from the school or program from which the applicant obtained the applicant's degree, which shows that all requirements for graduation have been met by the applicant, that meets the standards set by the board under 844 IAC 11-1-2.
- (5) Submits an official credentials report, which verifies passing a respiratory care practitioner examination, approved by the board.
- (6) If five (5) years have elapsed since the successful completion of the examination, required by the board, the applicant must take and successfully complete an examination approved by board within six (6) months of the date of application for licensure.
- (7) Otherwise meets the requirements of IC 25-34.5-2.

(Medical Licensing Board of Indiana; 844 IAC 11-3-3.1; filed Jan 7, 2002, 10:07 a.m.: 25 IR 1635)

844 IAC 11-3-4 Temporary permits by endorsement

Authority: IC 25-34.5-2-6; IC 25-34.5-2-7

Affected: IC 25-34.5-2-10.1; IC 25-34.5-2-11

Sec. 4. (a) An applicant for a temporary permit by endorsement under IC 25-34.5-2-10.1(a)(1) who submits proof of current certification or licensure to practice respiratory care from another state may be issued a temporary permit.

(b) An applicant for a temporary permit under IC 25-34.5-2-10.1(a)(2) who submits proof that the state in which the applicant is practicing does not require licensure or certification and proof of current credentials from a national respiratory care association approved by the committee may be issued a temporary permit.

(c) A temporary permit expires the earlier of the date the:

(1) person holding the permit is issued a license under IC 25-34.5-2-11; or

(2) committee disapproves the person's license application.

(Medical Licensing Board of Indiana; 844 IAC 11-3-4; filed Apr 15, 1994, 5:00 p.m.: 17 IR 2078; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1321)

844 IAC 11-3-4.1 Temporary permits by examination

Authority: IC 25-34.5-2-6; IC 25-34.5-2-7

Affected: IC 25-34.5-2-10.1

Sec. 4.1. (a) An applicant for a temporary permit by examination under IC 25-34.5-2-10.1(a)(3) will be required to take the examination for licensure within six (6) months after graduation.

(b) The temporary permit by examination will expire six (6) months after graduation.

(c) If the applicant fails to take the examination within the six (6) month period and presents an explanation to the committee in writing, which shows good cause for not taking the examination, the committee may allow the applicant to renew their temporary permit.

(d) The committee shall not issue or renew a temporary permit to an applicant who has failed the examination.

(Medical Licensing Board of Indiana; 844 IAC 11-3-4.1; filed Jan 7, 2002, 10:07 a.m.: 25 IR 1635)

Rule 4. Standards of Competent Practice Under the Direct Supervision of a Physician

- 844 IAC 11-4-1 Applicability
- 844 IAC 11-4-2 Confidentiality
- 844 IAC 11-4-3 Information to patient
- 844 IAC 11-4-4 Reasonable care
- 844 IAC 11-4-5 Incompetent practice
- 844 IAC 11-4-6 Peer reviews
- 844 IAC 11-4-7 Referral fees

844 IAC 11-4-1 Applicability

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 1. A respiratory care practitioner in the conduct of his or her practice of respiratory care shall abide by, and comply with, the standards of competent practice under the direct supervision of a physician.

(Medical Licensing Board of Indiana; 844 IAC 11-4-1; filed Nov 14, 1991, 3:30 p.m.: 15 IR 584; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532)

844 IAC 11-4-2 Confidentiality

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 2. A respiratory care practitioner shall maintain the confidentiality of all knowledge and information regarding a patient and all records relating to the patient. Information and records about a

patient shall be disclosed by a practitioner when required by law. (*Medical Licensing Board of Indiana; 844 IAC 11-4-2; filed Nov 14, 1991, 3:30 p.m.: 15 IR 584; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532*)

844 IAC 11-4-3 Information to patient

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 3. A respiratory care practitioner under the direct supervision of a physician shall give a truthful, candid, and reasonably complete account of the patient's specific treatment of the respiratory care condition to the patient or to those responsible for the patient's care. (*Medical Licensing Board of Indiana; 844 IAC 11-4-3; filed Nov 14, 1991, 3:30 p.m.: 15 IR 584; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532*)

844 IAC 11-4-4 Reasonable care

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 4. A respiratory care practitioner shall exercise reasonable care and diligence in the treatment of patients based upon generally accepted scientific principles, methods, treatments, and current professional theory and practice. (*Medical Licensing Board of Indiana; 844 IAC 11-4-4; filed Nov 14, 1991, 3:30 p.m.: 15 IR 584; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532*)

844 IAC 11-4-5 Incompetent practice

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 5. The following establishes incompetent practice of a respiratory care practitioner:

- (1) Willful or repeated violation of a rule of the medical licensing board of Indiana or a lawful order of the committee previously entered in a disciplinary hearing.
- (2) Accepting or performing professional responsibilities which the license holder knows, or has reason to know, he or she is not competent to perform.
- (3) Professional incompetence in the practice of respiratory care.
- (4) Failure to deliver respiratory care services with a level of care, skill, and treatment which is recognized by a reasonably prudent respiratory care practitioner with similar professional training as being acceptable under similar conditions and circumstances.
- (5) Exercising influence on a patient in such a manner as to exploit the patient for financial gain of the certificate holder or a third party, which shall include, but not be limited to, the promoting or selling of services, goods, or appliances.
- (6) Payment or receipt of any commission, bonus, kickback, rebate, or fee splitting arrangement in any form whatsoever with any person or organization. This subdivision shall not be construed to prevent the certificate holder from receiving a fee for professional consultation services.
- (7) Exercising influence within a respiratory care relationship for purposes of engaging a patient in sexual activity.
- (8) Inaccurately recording, falsifying, or altering patient records, including, but not limited to, patient charts or medication administration records.
- (9) Falsely misrepresenting facts on an application for employment as a respiratory care practitioner.
- (10) Leaving a respiratory therapy assignment before properly advising appropriate personnel.
- (11) Discriminating on the basis of race, creed, religion, sex, age, or national origin in the rendering of respiratory therapy services as it relates to human rights and the dignity of an individual.
- (12) Impersonating or acting as a proxy for an applicant in any examination required for licensure.
- (13) Impersonating another licensed practitioner or permitting another person to use his or her license for the purpose of practicing respiratory therapy for compensation.
- (14) Providing false or incorrect information to an employer regarding the status of his or her license.
- (15) Abandoning a patient.

(*Medical Licensing Board of Indiana; 844 IAC 11-4-5; filed Nov 14, 1991, 3:30 p.m.: 15 IR 584; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1322*)

844 IAC 11-4-6 Peer reviews

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 6. (a) A practitioner who has personal knowledge based upon a reasonable belief that another practitioner holding the same licensure has engaged in illegal, unlawful, incompetent, or fraudulent conduct in the practice of respiratory care shall promptly report such conduct to a peer review or similar body, as defined in IC 34-4-12.6-1(c) [IC 34-4 was repealed by P.L. 1-1998, SECTION 221, effective July 1, 1998.], having jurisdiction over the offending practitioner and the matter. This subsection does not prohibit a practitioner from promptly reporting said conduct directly to the respiratory care committee. Further, a practitioner who has personal knowledge of any person engaged in, or attempting to engage in, the unauthorized practice of respiratory care shall promptly report such conduct to the respiratory care committee.

(b) A practitioner who voluntarily submits himself or herself to, or is otherwise undergoing a course of treatment for addiction, severe dependency upon alcohol or other drugs or controlled substances, or for psychiatric impairment, where such treatment is sponsored or supervised by an impaired respiratory care practitioner committee of a state, regional, or local organization of professional health care providers, or where such treatment is sponsored or supervised by an impaired respiratory care practitioner committee of a hospital, shall be exempt from reporting to a peer review committee or to the respiratory care committee as long as:

- (1) the practitioner is complying with the course of treatment; and
- (2) the practitioner is making satisfactory progress.

(c) If the practitioner fails to comply with, or is not benefited by, the course of treatment, the practitioner/chief administrative officer, his designee, or any member of the impaired practitioner committee shall promptly report such facts and circumstances to the respiratory care committee. This subsection shall not, in any manner whatsoever, directly or indirectly, be deemed or construed to prohibit, restrict, limit, or otherwise preclude the respiratory care committee from taking such action as it deems appropriate or as may otherwise be provided by law. (*Medical Licensing Board of Indiana; 844 IAC 11-4-6; filed Nov 14, 1991, 3:30 p.m.: 15 IR 584; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1322*)

844 IAC 11-4-7 Referral fees

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 7. A practitioner shall not pay, demand, or receive compensation for referral of a patient except for a patient referral program operated by a professional society or association. (*Medical Licensing Board of Indiana; 844 IAC 11-4-7; filed Nov 14, 1991, 3:30 p.m.: 15 IR 585; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532*)

844 IAC 11-4-8 Liability to patients

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 8. A practitioner shall not attempt to exonerate himself or herself from or limit his or her liability to a patient for his or her personal malpractice except that a practitioner may enter into agreements that contain informed, voluntary releases and/or waivers of liability in settlement of a claim made by a patient or by those responsible for a patient's care. (*Medical Licensing Board of Indiana; 844 IAC 11-4-8; filed Nov 14, 1991, 3:30 p.m.: 15 IR 585; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1323*)

844 IAC 11-4-9 Patient complaints

Authority: IC 25-34.5-2-7

Affected: IC 25-1-9; IC 25-34.5-2

Sec. 9. A practitioner shall not attempt to preclude, prohibit, or otherwise prevent the filing of a complaint against him or her by a patient or other practitioner for any alleged violation of this article, any alleged violation of IC 25-1-9, or any other law. (*Medical Licensing Board of Indiana; 844 IAC 11-4-9; filed Nov 14, 1991, 3:30 p.m.: 15 IR 585; readopted filed Sep 28, 2001, 4:00 p.m.: 25 IR 532*)

Rule 5. Licensure Renewal

844 IAC 11-5-1 Address; change of name

844 IAC 11-5-2 Reinstatement of delinquent certificate (*Expired January 1, 2002*)

844 IAC 11-5-3 Continuing education hours required

844 IAC 11-5-4 Reporting continuing education
844 IAC 11-5-5 Approval of continuing education programs

844 IAC 11-5-1 Address; change of name

Authority: IC 25-34.5-2-7

Affected: IC 25-34.5-2

Sec. 1. (a) Each respiratory care practitioner shall inform the committee, in writing, of all changes of address or name within fifteen (15) days of the change.

(b) A respiratory care practitioner's failure to receive notification of renewal due to failure to notify the committee of a change of address or name shall not constitute an error on the part of the committee, board, or bureau, nor shall it exonerate or otherwise excuse the respiratory care practitioner from renewing such license. *(Medical Licensing Board of Indiana; 844 IAC 11-5-1; filed Sep 29, 1992, 2:00 p.m.: 16 IR 723; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1323)*

844 IAC 11-5-2 Reinstatement of delinquent certificate (Expired)

Authority: IC 25-34.5-2-7; IC 25-34.5-2-10

Affected: IC 25-34.5-2-10

Sec. 2. (Expired under IC 4-22-2.5, effective January 1, 2002.)

844 IAC 11-5-3 Continuing education hours required

Authority: IC 25-34.5-2-10

Affected: IC 25-34.5-2-10

Sec. 3. (a) Each respiratory care practitioner licensed in Indiana is required to complete an annual average of seven and one-half (7.5) hours of continuing education during each biennium (January 1 of odd-numbered year to December 31 of succeeding even-numbered year) in the area of respiratory care.

(b) A respiratory care practitioner is not required to complete continuing education requirements for the year in which the initial license was issued.

(c) Continuing education hours must be obtained within the biennial renewal period and may not be carried over from one (1) licensure period to another.

(d) No more than five (5) hours of continuing education can be obtained through correspondence courses during the biennium.

(e) The committee shall accept continuing education courses in the following areas toward fulfillment of the requirements under IC 25-34.5-2-10(a):

(1) Management of the practice of respiratory care.

(2) Courses concerning the practice of respiratory care that do the following:

(A) Enable individuals to teach continuing education courses for respiratory care practitioners.

(B) Enable respiratory care practitioner to teach topics related to patient/family education.

(3) The practice of respiratory care.

(Medical Licensing Board of Indiana; 844 IAC 11-5-3; filed Sep 29, 1992, 2:00 p.m.: 16 IR 723; filed Aug 4, 1994, 5:00 p.m.: 17 IR 2869; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1323)

844 IAC 11-5-4 Reporting continuing education

Authority: IC 25-34.5-2-10

Affected: IC 25-34.5-2-10

Sec. 4. (a) A licensee must sign the renewal form provided by the bureau that verifies that all continuing education requirements according to section 3 of this rule will have been met by the time of license renewal.

(b) The respiratory care practitioner shall maintain his or her continuing education records of a given biennium for a period of four (4) years following the end of the biennium.

(c) It is the responsibility of the respiratory care practitioner to verify that courses attended have been approved by the committee. Without approval, as provided under section 5 of this rule, credit will not be given. *(Medical Licensing Board of Indiana; 844 IAC 11-5-4; filed Sep 29, 1992, 2:00 p.m.: 16 IR 723; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1323)*

844 IAC 11-5-5 Approval of continuing education programs

Authority: IC 25-34.5-2-10

Affected: IC 25-34.5-2-10

Sec. 5. (a) The following criteria shall be used for approval of continuing education programs for respiratory care practitioners:

- (1) The continuing education program shall have a statement of objectives which the program should achieve for its participants relating to and enhancing the study of respiratory care.
- (2) The sponsor of continuing education programs shall provide adequate administration, including a responsible person to coordinate and administer the program, and shall provide for the maintenance of proper records.
- (3) Sponsors of continuing education programs shall provide adequate funding for the educational programs undertaken.
- (4) The curriculum of a continuing education program shall be thoughtfully planned and designed to explore in considerable depth one (1) subject or a closely related group of subjects related to the practice of respiratory care.
- (5) The continuing education program shall have qualified faculty members who have demonstrated competence in the subject areas.
- (6) The continuing education program shall be held in adequate facilities that allow for an effective program.
- (7) Continuing education programs shall employ a variety of educational methods and teaching aids that enhance the learning opportunities.
- (8) Appropriate methods of evaluation shall be devised and used to measure the continuing education program's effectiveness.
- (9) The sponsor of the continuing education program shall provide to the participants a meaningful record of attendance stating the continuing education hours involved.

(b) Programs for continuing education may be approved by the committee provided the sponsoring organization has submitted the proper form at least thirty (30) days prior to presentation of the program.

(c) The sponsor of the program is responsible for monitoring attendance in such a manner that verification of attendance throughout the entire program can be reliably assured.

(d) Notwithstanding subsections (a) and (b), continuing education programs for respiratory care practitioners sponsored by the following organizations are approved as follows:

- (1) American Association of Respiratory Care or one (1) of its chartered affiliates.
- (2) American Medical Association.
- (3) American Nurses Association.
- (4) Indiana State Nurses Association.
- (5) American College of Chest Physicians.
- (6) American Academy of Pediatrics.
- (7) American Academy of Pediatrics Certification/Recertification, including the following:
 - (A) Pediatric Advanced Life Support (PALS)—eight (8) hours.
 - (B) Neonatal Resuscitation Certification (NRC)—four (4) hours.
 - (C) Pediatric Advanced Life Support (PALS) Instructor Course—eight (8) hours.
 - (D) Neonatal Resuscitation Certification (NRC) Instructor Course—four (4) hours.
- (8) American Heart Association seminar programs.
- (9) American Heart Association Certification/Recertification, including the following:
 - (A) Advanced Cardiac Life Support (ACLS)—eight (8) hours.
 - (B) Basic Cardiac Life Support (CPR)—two (2) hours.
 - (C) Advanced Cardiac Life Support (ACLS) Instructor Course—eight (8) hours.
 - (D) Basic Cardiac Life Support (CPR) Instructor Course—four (4) hours.
 - (E) Automated External Defibrillator Certification—four (4) hours.
 - (F) Automated External Defibrillator Certification Instructor Course—four (4) hours.
- (10) Society of Critical Care Medicine.
- (11) American Association of Critical Care Nurses.
- (12) American Society of Anesthesiologists.
- (13) American Polysomnographers Technologist.
- (14) American Osteopathic Association.
- (15) National Society for Cardiopulmonary Technologists.
- (16) American Thoracic Society.
- (17) American Lung Association.

(e) The following programs shall be approved by the committee for the following number of hours:

- (1) Intermediate Electrocardiography (EKG)- one (1) hour.

(2) Atlanta School of Sleep Medicine and Technology, "Seminar on Sleep Study and Technology"- two (2) week seminar- eight (8) hours.
(Medical Licensing Board of Indiana; 844 IAC 11-5-5; filed Sep 29, 1992, 2:00 p.m.: 16 IR 723; filed Aug 4, 1994, 5:00 p.m.: 17 IR 2870; readopted filed Nov 30, 2001, 10:25 a.m.: 25 IR 1324)

IC 25-1-9

Chapter 9. Health Professions Standards of Practice

IC 25-1-9-1 "Board" defined

Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Board of chiropractic examiners (IC 25-10-1).
- (2) State board of dentistry (IC 25-14-1).
- (3) Indiana state board of health facility administrators (IC 25-19-1).
- (4) Medical licensing board of Indiana (IC 25-22.5-2).
- (5) Indiana state board of nursing (IC 25-23-1).
- (6) Indiana optometry board (IC 25-24).
- (7) Indiana board of pharmacy (IC 25-26).
- (8) Board of podiatric medicine (IC 25-29-2-1).
- (9) Board of environmental health specialists (IC 25-32).
- (10) Speech-language pathology and audiology board (IC 25-35.6-2).
- (11) State psychology board (IC 25-33).
- (12) Indiana board of veterinary medical examiners (IC 15-5-1.1).
- (13) Indiana physical therapy committee (IC 25-27-1).
- (14) Respiratory care committee (IC 25-34.5).
- (15) Occupational therapy committee (IC 25-23.5).
- (16) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
- (17) Physician assistant committee (IC 25-27.5).
- (18) Indiana athletic trainers board (IC 25-5.1-2-1).
- (19) Indiana dietitians certification board (IC 25-14.5-2-1).
- (20) Indiana hypnotist committee (IC 25-20.5-1-7).

As added by P.L. 152-1988, SEC. 1. Amended by P.L. 242-1989, SEC. 7; P.L. 238-1989, SEC. 7; P.L. 186-1990, SEC. 7; P.L. 48-1991, SEC. 20; P.L. 227-1993, SEC. 7; P.L. 33-1993, SEC. 14; P.L. 213-1993, SEC. 4; P.L. 1-1994, SEC. 122; P.L. 124-1994, SEC. 6; P.L. 175-1997, SEC. 6; P.L. 147-1997, SEC. 10; P.L. 84-1998, SEC. 5; P.L. 24-1999, SEC. 6.

IC 25-1-9-2 "Practitioner" defined

Sec. 2. As used in this chapter, "practitioner" means an individual who holds:

- (1) an unlimited license, certificate, or registration;
- (2) a limited or probationary license, certificate, or registration;
- (3) a temporary license, certificate, registration, or permit;
- (4) an intern permit; or
- (5) a provisional license;

issued by the board regulating the profession in question, including a certificate of registration issued under IC 25-20.

As added by P.L. 152-1988, SEC. 1.

IC 25-1-9-3 "License" defined

Sec. 3. As used in this chapter, "license" includes a license, certificate, registration, or permit.

As added by P.L. 152-1988, SEC. 1.

IC 25-1-9-3.5 "Sexual contact" defined

Sec. 3.5. As used in this chapter, "sexual contact" means:

- (1) sexual intercourse (as defined in IC 35-41-1-26);
- (2) deviate sexual conduct (as defined in IC 35-41-1-9); or
- (3) any fondling or touching intended to arouse or satisfy the sexual desires of either the individual performing the fondling or touching or the individual being fondled or touched.

As added by P.L. 200-2001, SEC. 1.

IC 25-1-9-4 Standards of professional practice; findings required for sanctions; evidence of foreign discipline

Sec. 4. (a) A practitioner shall conduct the practitioner's practice in accordance with the standards established by the board regulating the profession in question and is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds:

- (1) a practitioner has:
 - (A) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to

practice;

- (B) engaged in fraud or material deception in the course of professional services or activities; or
 - (C) advertised services in a false or misleading manner;
 - (2) a practitioner has been convicted of a crime that has a direct bearing on the practitioner's ability to continue to practice competently;
 - (3) a practitioner has knowingly violated any state statute or rule, or federal statute or regulation, regulating the profession in question;
 - (4) a practitioner has continued to practice although the practitioner has become unfit to practice due to:
 - (A) professional incompetence that:
 - (i) may include the undertaking of professional activities that the practitioner is not qualified by training or experience to undertake; and
 - (ii) does not include activities performed under IC 16-21-2-9;
 - (B) failure to keep abreast of current professional theory or practice;
 - (C) physical or mental disability; or
 - (D) addiction to, abuse of, or severe dependency upon alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;
 - (5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;
 - (6) a practitioner has allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual who renders services beyond the scope of that individual's training, experience, or competence;
 - (7) a practitioner has had disciplinary action taken against the practitioner or the practitioner's license to practice in any other state or jurisdiction on grounds similar to those under this chapter;
 - (8) a practitioner has diverted:
 - (A) a legend drug (as defined in IC 16-18-2-199); or
 - (B) any other drug or device issued under a drug order (as defined in IC 16-42-19-3) for another person;
 - (9) a practitioner, except as otherwise provided by law, has knowingly prescribed, sold, or administered any drug classified as a narcotic, addicting, or dangerous drug to a habitue or addict;
 - (10) a practitioner has failed to comply with an order imposing a sanction under section 9 of this chapter;
 - (11) a practitioner has engaged in sexual contact with a patient under the practitioner's care or has used the practitioner-patient relationship to solicit sexual contact with a patient under the practitioner's care; or
 - (12) a practitioner who is a participating provider of a health maintenance organization has knowingly collected or attempted to collect from a subscriber or enrollee of the health maintenance organization any sums that are owed by the health maintenance organization.
- (b) A practitioner who provides health care services to the practitioner's spouse is not subject to disciplinary action under subsection (a)(11).
- (c) A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action under subsection (a)(7).
- As added by P.L. 152-1988, SEC.1. Amended by P.L.2-1993, SEC.136; P.L.149-1997, SEC.7; P.L.22-1999, SEC.4; P.L.200-2001, SEC.2; P.L.203-2001, SEC.3; P.L.1-2002, SEC.96.*

IC 25-1-9-5 Optometry employment practice

Sec. 5. In addition to section 4 of this chapter, a practitioner licensed to practice optometry is subject to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds a practitioner has accepted employment to practice optometry from a person other than:

- (1) a corporation formed by an optometrist under IC 23-1.5; or
- (2) an individual who is licensed as an optometrist under this article and whose legal residence is in Indiana.

As added by P.L. 152-1988, SEC.1.

IC 25-1-9-6 Veterinary practitioners; cruelty to animals

Sec. 6. In addition to section 4 of this chapter, a practitioner licensed to practice veterinary medicine or registered as a veterinary technician is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds a practitioner has engaged in cruelty to animals.

As added by P.L. 152-1988, SEC.1.

IC 25-1-9-6.5 Chiropractors; waiver of deductible or copayment

Sec. 6.5. (a) In addition to section 4 of this chapter, a practitioner licensed to practice chiropractic is

subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board regulating the profession finds a practitioner has:

(1) waived a payment of a deductible or a copayment required to be made to the practitioner by a patient under the patient's insurance or health care plan; and

(2) advertised the waiver of a payment described in subdivision (1).

(b) This section does not apply to the waiver of a deductible or a copayment by a practitioner if:

(1) the practitioner determines chiropractic service is necessary for the immediate health and welfare of a patient;

(2) the practitioner determines the payment of a deductible or a copayment would create a substantial financial hardship for the patient; and

(3) the waiver is based on the evaluation of the individual patient and is not a regular business practice of the practitioner.

As added by P.L. 151-1989, SEC.9.

IC 25-1-9-6.7 Marriage and family therapists; disciplinary sanctions

Sec. 6.7. In addition to the actions listed under section 4 of this chapter that subject a practitioner to the exercise of disciplinary sanctions, a practitioner who is licensed under IC 25-23.6 is subject to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board regulating the profession finds that the practitioner has:

(1) performed any therapy that, by the prevailing standards of the mental health professions in the community where the services were provided, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent;

(2) failed to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance in professional activities, including the undertaking of activities that the practitioner is not qualified by training or experience to undertake;

(3) performed services, including any duties required of the individual under IC 31, in reckless disregard of the best interests of a patient, a client, or the public;

(4) without the consent of the child's parent, guardian, or custodian, knowingly participated in the child's removal or precipitated others to remove a child from the child's home unless:

(A) the child's physical health was endangered due to injury as a result of the act or omission of the child's parent, guardian, or custodian;

(B) the child had been or was in danger of being a victim of an offense under IC 35-42-4, IC 35-45-4-1, IC 35-45-4-2, IC 35-46-1-3, IC 35-49-2-2, or IC 35-49-3-2; or

(C) the child was in danger of serious bodily harm as a result of the inability, refusal, or neglect of the child's parent, guardian, or custodian to supply the child with necessary food, shelter, or medical care, and a court order was first obtained;

(5) willfully made or filed a false report or record, failed to file a report or record required by law, willfully impeded or obstructed the filing of a report or record, or induced another individual to:

(A) make or file a false report or record; or

(B) impede or obstruct the filing of a report or record; or

(6) performed a diagnosis (as defined in IC 25-22.5-1-1.1(c));

(7) provided evidence in an administrative or judicial proceeding that had insufficient factual basis for the conclusions rendered by the practitioner;

(8) willfully planted in the mind of the patient suggestions that are not based in facts known to the practitioner; or

(9) performed services outside of the scope of practice of the license issued under IC 25-23.6.

As added by P.L. 147-1997, SEC. 11. Amended by P.L.2-1998, SEC.65.

IC 25-1-9-6.8 Practitioner guidelines before prescribing stimulant medication for a child for treatment of certain disorders

Sec. 6.8. (a) This section applies to a practitioner who is:

(1) licensed to practice medicine or osteopathic medicine under IC 25-22.5; or

(2) an advanced practice nurse granted prescriptive authority under IC 25-23, and whose practice agreement with a collaborating physician reflects the conditions specified in subsection (b).

(b) Before prescribing a stimulant medication for a child for the treatment of attention deficit disorder or attention deficit hyperactivity disorder, a practitioner described in subsection (a) shall follow the most recent guidelines adopted by the American Academy of Pediatrics or the American Academy of Child and Adolescent Psychiatry for the diagnosis and evaluation of a child with attention deficit disorder or attention deficit hyperactivity disorder.

As added by P.L. 107-2002, SEC.28.

IC 25-1-9-6.9 Failing to provide or providing false information to agency

Sec. 6.9. In addition to the actions listed under section 4 of this chapter that subject a practitioner to disciplinary sanctions, a practitioner is subject to the exercise of disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds that the practitioner has:

- (1) failed to provide information requested by the Indiana professional licensing agency; or
- (2) knowingly provided false information to the Indiana professional licensing agency;

for a provider profile required under IC 25-1-5-10.

As added by P.L.211-2001, SEC.2. Amended by P.L.206-2005, SEC.14.

IC 25-1-9-7 Physical or mental examination; power to require

Sec. 7. The board may order a practitioner to submit to a reasonable physical or mental examination, at the practitioner's own expense, if the practitioner's physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

As added by P.L.152-1988, SEC.1. Amended by P.L.158-2003, SEC.2.

IC 25-1-9-8 Failure to submit to physical or mental examination; sanctions

Sec. 8. Failure to comply with a board order to submit to a physical or mental examination makes a practitioner liable to summary suspension under section 10 of this chapter.

As added by P.L.152-1988, SEC.1.

IC 25-1-9-9 Disciplinary sanctions

Sec. 9. (a) The board may impose any of the following sanctions, singly or in combination, if it finds that a practitioner is subject to disciplinary sanctions under section 4, 5, 6, 6.7, or 6.9 of this chapter or IC 25-1-5-4:

- (1) Permanently revoke a practitioner's license.
- (2) Suspend a practitioner's license.
- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.
- (5) Place a practitioner on probation status and require the practitioner to:
 - (A) report regularly to the board upon the matters that are the basis of probation;
 - (B) limit practice to those areas prescribed by the board;
 - (C) continue or renew professional education under a preceptor, or as otherwise directed or approved by the board, until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or

(D) perform or refrain from performing any acts, including community restitution or service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

(6) Assess a fine against the practitioner in an amount not to exceed one thousand dollars (\$1,000) for each violation listed in section 4 of this chapter, except for a finding of incompetency due to a physical or mental disability. When imposing a fine, the board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the fine within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a fine.

(b) The board may withdraw or modify the probation under subsection (a)(5) if it finds, after a hearing, that the deficiency that required disciplinary action has been remedied, or that changed circumstances warrant a modification of the order.

As added by P.L.152-1988, SEC.1. Amended by P.L.48-1991, SEC.21; P.L.22-1999, SEC.5; P.L.32-2000, SEC.10; P.L.211-2001, SEC.3.

IC 25-1-9-10 Summary license suspension pending final adjudication; notice; opportunity to be heard

Sec. 10. (a) The board may summarily suspend a practitioner's license for ninety (90) days before a final adjudication or during the appeals process if the board finds that a practitioner represents a clear and immediate danger to the public health and safety if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for ninety (90) days or less.

(b) Before the board may summarily suspend a license that has been issued under IC 15-5-1.1, IC 25-22.5 or IC 25-14, the consumer protection division of the attorney general's office shall make a reasonable attempt to notify a practitioner of a hearing by the board to suspend a practitioner's license and of information regarding the allegation against the practitioner. The consumer protection division of the attorney general's office shall also notify the practitioner that the practitioner may provide a written or an oral statement to the board on the practitioner's behalf before the board issues an order for summary

suspension. A reasonable attempt to reach the practitioner is made if the consumer protection division of the attorney general's office attempts to reach the practitioner by telephone or facsimile at the last telephone number of the practitioner on file with the board.

(c) After a reasonable attempt is made to notify a practitioner under subsection (b):

(1) a court may not stay or vacate a summary suspension of a practitioner's license for the sole reason that the practitioner was not notified; and

(2) the practitioner may not petition the board for a delay of the summary suspension proceedings.

As added by P.L. 152-1988, SEC. 1. Amended by P.L. 43-1995, SEC. 2; P.L. 71-2000, SEC. 18.

IC 25-1-9-10.1 Retention of clinical consultants and experts to advise on suspension

Sec. 10.1. The attorney general may retain the services of a clinical consultant or an expert to provide the attorney general with advice concerning the acts that are the subject of a suspension under this chapter.

As added by P.L. 43-1995, SEC. 3.

IC 25-1-9-11 Reinstatement of suspended licenses

Sec. 11. The board may reinstate a license which has been suspended under this chapter if, after a hearing, the board is satisfied that the applicant is able to practice with reasonable skill and safety to the public. As a condition of reinstatement, the board may impose disciplinary or corrective measures authorized under this chapter.

As added by P.L. 152-1988, SEC. 1.

IC 25-1-9-12 Reinstatement of revoked license

Sec. 12. The board may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.

As added by P.L. 152-1988, SEC. 1.

IC 25-1-9-13 Consistency of sanctions prescribed

Sec. 13. The board shall seek to achieve consistency in the application of the sanctions authorized in this section. Significant departures from prior decisions involving similar conduct must be explained in the board's findings or orders.

As added by P.L. 152-1988, SEC. 1.

IC 25-1-9-14 Surrender of practitioners license instead of hearing; approval

Sec. 14. A practitioner may petition the board to accept the surrender of the practitioner's license instead of a hearing before the board. The practitioner may not surrender the practitioner's license without the written approval of the board, and the board may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

As added by P.L. 152-1988, SEC. 1.

IC 25-1-9-15 Costs in disciplinary proceedings

Sec. 15. Practitioners who have been subjected to disciplinary sanctions may be required by a board to pay for the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.
- (3) Certification of documents.
- (4) Photoduplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.
- (8) Depositions.
- (9) Notarizations.
- (10) Administrative law judges.

As added by P.L. 152-1988, SEC. 1. Amended by P.L. 158-2003, SEC. 3.

IC 25-1-9-16 Refusal of licensure or grant of probationary license

Sec. 16. (a) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure if:

(1) the applicant has been disciplined by a licensing entity of another state or jurisdiction, or has committed an act that would have subjected the applicant to the disciplinary process had the applicant been licensed in Indiana when the act occurred; and

(2) the violation for which the applicant was, or could have been, disciplined has a direct bearing on the applicant's ability to competently practice in Indiana.

(b) Whenever the board issues a probationary license, the board may impose one (1) or more of the following conditions:

(1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.

(2) Limit practice to those areas prescribed by the board.

(3) Continue or renew professional education.

(4) Engage in community restitution or service without compensation for a number of hours specified by the board.

(5) Perform or refrain from performing an act that the board considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.

(c) The board shall remove any limitations placed on a probationary license under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

As added by P.L.33-1993, SEC.15. Amended by P.L.32-2000, SEC.11.

IC 25-1-9-17 Applicant appearance before board or controlled substances advisory committee

Sec. 17. The board and the controlled substances advisory committee (IC 35-48-2-1) may require an applicant for licensure to appear before the board or committee before issuing a license.

As added by P.L.33-1993, SEC.16.

IC 25-1-9-18 Fitness determination of health care provider; filing complaint

Sec. 18. (a) If the insurance commissioner forwards to the board the name of a practitioner under IC 34-18-9-4(a) (or IC 27-12-9-4(a) before its repeal), the board shall consider whether:

(1) the practitioner has become unfit to practice under section 4 of this chapter; and

(2) a complaint should be filed under IC 25-1-7-4.

(b) If the board determines that a complaint should be filed under subsection (a), the board must report to the consumer protection division whether the board will schedule the matter:

(1) for informal negotiation under IC 25-1-7-6;

(2) on the board's agenda for a vote requesting that the attorney general prosecute the matter before the board under IC 25-1-7-7; or

(3) on the board's agenda for a vote on summary suspension of the practitioner's license pending prosecution of the matter before the board under IC 25-1-7-7.

(c) A board may designate a board member or staff member to act on behalf of the board under this section.

As added by P.L.43-1995, SEC.4. Amended by P.L.1-1998, SEC.131.

IC 25-1-9-19 Third party billing notice

Sec. 19. A practitioner that provides to a patient notice concerning a third party billing for a health care service provided to the patient shall ensure that the notice:

(1) conspicuously states that the notice is not a bill;

(2) does not include a tear-off portion; and

(3) is not accompanied by a return mailing envelope.

As added by P.L.178-2003, SEC.12.